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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

Case No. 2013-522

14 **VERONICA AMELIA CUEVAS**

DEFAULT DECISION AND ORDER

15 Respondent. [Gov. Code, § 11520]

16 **FINDINGS OF FACT**

17 1. On or about December 26, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Statement of Issues No. 2013-522 against Veronica Amelia Cuevas
20 (Respondent) before the Board of Registered Nursing.

21 2. On or about February 23, 2012, Respondent filed an application dated February 20,
22 2012, with the Board of Registered Nursing to obtain a registered nurse license.

23 3. On or about July 25, 2012, the Board issued a letter denying Respondent's application
24 for a registered nursing license. On or about September 24, 2012, Respondent appealed the
25 Board's denial of her application and requested a hearing.

26 4. On or about September 24, 2012, Respondent appealed the denial of her application
27 and requested a hearing in this action.

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1 5. On or about December 26, 2012, an employee of the Department of Justice, served by
2 Certified Mail a copy of the Statement of Issues No. 2013-522, Statement to Respondent, Notice
3 of Defense, Request for Discovery, Government Code sections 11507.5, 11507.6, and 11507.7,
4 Notice from Respondent/Applicant, and Disciplinary Guidelines to Respondent's address on the
5 application form, which was and is 11101 Emerson Way, Stanton, CA 90680-2849. A copy of
6 the Statement of Issues is attached as exhibit A, and is incorporated herein by reference.

7 6. Service of the Statement of Issues was effective as a matter of law under the
8 provisions of Government Code section 11505, subdivision (c)

9 7. On February 11, 2013, the Department of Justice Office of the Attorney General
10 received a Withdrawal of Request for Hearing form signed by Respondent, dated February 6,
11 2013. The request for withdrawal is attached as exhibit B, and is incorporated herein by reference

12 8. Business and Professions Code section 118 states, in pertinent part:

13 (a) The withdrawal of an application for a license after it has been filed with a
14 board in the department shall not, unless the board has consented in writing to such
15 withdrawal, deprive the board of its authority to institute or continue a proceeding
16 against the applicant for the denial of the license upon any ground provided by law or
17 to enter an order denying the license upon any such ground.

18 9. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts
21 of the accusation not expressly admitted. Failure to file a notice of defense shall
22 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
23 may nevertheless grant a hearing.

24 10. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent; and where the burden of proof is on the respondent to establish that the
respondent is entitled to the agency action sought, the agency may act without taking
evidence.

11. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on
evidence on file herein, finds that the allegations, in Statement of Issues No. 2013-522 are true.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Veronica Amelia Cuevas has subjected her application for a registered nurse license to denial.

2. Service of Statement of Issues No. 2013-522 and related documents was proper and in accordance with the law.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to deny Respondent's application for licensure based upon the following violations alleged in the Statement of Issues:

a. On or about August 13, 2009, in a criminal proceeding entitled *People of the State of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (West Justice Center), case number 09WM01025, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of more than 0.15%, having been previously convicted of driving under the influence on or about May 17, 2007.

b. On or about May 17, 2007, in a criminal proceeding entitled *People of the State of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (West Justice Center), case number 07WM04042, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (a), (driving under the influence of alcohol), and Vehicle Code section 23152, subdivision (b), (driving with a BAC of more than 0.08%), misdemeanors.

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues
Against:

Case No. 2013-522

VERONICA AMELIA CUEVAS

Respondent.

DECISION AND ORDER

IT IS SO ORDERED that the application for a registered nursing license filed by Respondent Veronica Amelia Cuevas, is denied.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MAY 23, 2013.

It is so ORDERED APRIL 23, 2013


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

- Exhibit A: Statement of Issues No. 2013-522
Exhibit B: Respondent/Applicant's Notice of Withdrawal
of Request for Hearing Case No. 2013-522

Exhibit A

Statement of Issues No. 2013-522

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
4 State Bar No. 254663
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **VERONICA AMELIA CUEVAS**

14 Respondent.

Case No. 2013-522

STATEMENT OF ISSUES

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
19 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about February 23, 2012, the Board of Registered Nursing, Department of
22 Consumer Affairs received an application for a Registered Nurse License from Veronica Amelia
23 Cuevas (Respondent). On or about February 20, 2012, Veronica Amelia Cuevas certified under
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on July 25, 2012.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Business and Professions Code provides, in pertinent part, that a board may deny a license if the applicant has been convicted of a crime substantially related to the qualifications, functions or duties of the business or profession for which application is made, has committed any act involving dishonesty, fraud or deceit, has committed any act which if done by a licentiate would be grounds for suspension or revocation of a license, or has knowingly made a false statement of fact required to be revealed in the application.

1 7. Section 482 of the Code states:

2 Each board under the provisions of this code shall develop criteria to
3 evaluate the rehabilitation of a person when:

4 (a) Considering the denial of a license by the board under Section
5 480; or

6 (b) Considering suspension or revocation of a license under Section
7 490.

8 Each board shall take into account all competent evidence of
9 rehabilitation furnished by the applicant or licensee.

10 8. Section 493 of the Code states:

11 Notwithstanding any other provision of law, in a proceeding conducted
12 by a board within the department pursuant to law to deny an application for a
13 license or to suspend or revoke a license or otherwise take disciplinary
14 action against a person who holds a license, upon the ground that the
15 applicant or the licensee has been convicted of a crime substantially related
16 to the qualifications, functions, and duties of the licensee in question, the
17 record of conviction of the crime shall be conclusive evidence of the fact
18 that the conviction occurred, but only of that fact, and the board may inquire
19 into the circumstances surrounding the commission of the crime in order to
20 fix the degree of discipline or to determine if the conviction is substantially
21 related to the qualifications, functions, and duties of the licensee in question.

22 As used in this section, "license" includes "certificate," "permit,"
23 "authority," and "registration."

24 9. Section 2761 of the Code states:

25 The board may take disciplinary action against a certified or licensed nurse or
26 deny an application for a certificate or license for any of the following:

27 (a) Unprofessional conduct, which includes, but is not limited to, the
28 following:

.....

29 (f) Conviction of a felony or of any offense substantially related to the
30 qualifications, functions, and duties of a registered nurse, in which event the record of
31 the conviction shall be conclusive evidence thereof.

.....

32 10. Section 2762 of the Code states:

33 In addition to other acts constituting unprofessional conduct within the
34 meaning of this chapter [the Nursing Practice Act], it is unprofessional
35 conduct for a person licensed under this chapter to do any of the following:

1 ...
2 (b) Use any controlled substance as defined in Division 10
3 (commencing with Section 11000) of the Health and Safety Code, or any
4 dangerous drug or dangerous device as defined in Section 4022, or alcoholic
5 beverages, to an extent or in a manner dangerous or injurious to himself or
6 herself, any other person, or the public or to the extent that such use impairs
7 his or her ability to conduct with safety to the public the practice authorized
8 by his or her license.

9
10 (c) Be convicted of a criminal offense involving the prescription,
11 consumption, or self-administration of any of the substances described in
12 subdivisions (a) and (b) of this section, or the possession of, or falsification
13 of a record pertaining to, the substances described in subdivision (a) of this
14 section, in which event the record of the conviction is conclusive evidence
15 thereof.
16 ...

11 REGULATORY PROVISIONS

12 11. California Code of Regulations, title 16, section 1444, states:

13 A conviction or act shall be considered to be substantially related to
14 the qualifications, functions or duties of a registered nurse if to a substantial
15 degree it evidences the present or potential unfitness of a registered nurse to
16 practice in a manner consistent with the public health, safety, or welfare.
17 Such convictions or acts shall include but not be limited to the following:

18 (a) Assaultive or abusive conduct including, but not limited to, those
19 violations listed in subdivision (d) of Penal Code Section 11160.

20 (b) Failure to comply with any mandatory reporting requirements.

21 (c) Theft, dishonesty, fraud, or deceit.

22 (d) Any conviction or act subject to an order of registration pursuant to
23 Section 290 of the Penal Code.

24 12. California Code of Regulations, title 16, section 1445 states:

25 ...
26 (b) When considering the suspension or revocation of a license on the grounds
27 that a registered nurse has been convicted of a crime, the board, in evaluating the
28 rehabilitation of such person and his/her eligibility for a license will consider the
following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

1 (3) The time that has elapsed since commission of the act(s) or
2 offense(s).

3 (4) Whether the licensee has complied with any terms of parole,
4 probation, restitution or any other sanctions lawfully imposed against the
5 licensee.

6 (5) If applicable, evidence of expungement proceedings pursuant to
7 Section 1203.4 of the Penal Code.

8 (6) Evidence, if any, of rehabilitation submitted by the licensee.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(August 13, 2009 Criminal Conviction for DUI on November 17, 2008)**

11 13. Respondent has subjected her license to disciplinary action under sections 480
12 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is
13 substantially related to the qualifications, functions, and duties of a registered nurse. The
14 circumstances are as follows:

15 a. On or about August 13, 2009, in a criminal proceeding entitled *People of the*
16 *State of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (West Justice
17 Center), case number 09WM01025, Respondent was convicted on her plea of guilty of violating
18 Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC)
19 of more than 0.15%, and she had been previously convicted of driving under the influence on or
20 about May 17, 2007.

21 b. As a result of the conviction, on or about August 13, 2009, Respondent was
22 sentenced to five years informal probation, and ordered to serve 60 days in the Orange County
23 Jail (with credit for three days), attend and complete an 18-month Multiple Offender Alcohol
24 Program, pay \$837 in fees, fines, and restitution, and comply with standard alcohol terms.

25 c. The facts that led to the conviction were that on or about the early morning of
26 November 17, 2008, Orange County Sheriff's Deputies observed Respondent driving in an unsafe
27 manner in a residential area, swerving from side to side and striking the right curb. The deputies
28 initiated a traffic stop and contacted Respondent. Respondent's eyes were watery and her
responses were slow. Respondent agreed to submit to a series of field sobriety tests which were

1 not completed satisfactorily. Respondent refused to provide a breath sample. Respondent was
2 arrested and transported to a medical facility where a blood sample was drawn. The sample
3 subsequently tested with a BAC of 0.16%.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(May 17, 2007 Criminal Conviction for DUI on February 1, 2007)**

6 14. Respondent has subjected her license to disciplinary action under sections 480 and
7 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
8 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
9 follows:

10 a. On or about May 17, 2007, in a criminal proceeding entitled *People of the State*
11 *of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (West Justice
12 Center), case number 07WM04042, Respondent was convicted on her plea of guilty of violating
13 Vehicle Code section 23152, subdivision (a), (driving under the influence of alcohol), and
14 Vehicle Code section 23152, subdivision (b), (driving with a BAC of more than 0.08%),
15 misdemeanors.

16 b. As a result of the conviction, Respondent was sentenced to five years informal
17 probation, and ordered to serve 30 days in the Orange County Jail (or 30 days of volunteer
18 exchange with CalTrans), attend and complete a six-month First Offender Alcohol Program,
19 complete a MADD Victim's Impact Panel, pay \$697 in fees, fines, and restitution, and adhere to
20 standards terms of probation.

21 c. The facts that led to the conviction were that on or about the early morning of
22 February 1, 2007, Respondent was observed by a Huntington Beach Police Department helicopter
23 driving at an extremely high rate of speed (clocked at approximately 150 miles per hour in a
24 Toyota Scion). Respondent's vehicle was stopped by officers of the Huntington Beach and
25 Westminster Police Departments. Respondent failed the field sobriety tests and she was arrested
26 for driving under the influence. Respondent was served an order of suspension of driving
27 privileges. A subsequent blood test revealed a BAC of 0.14%.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

3 15. Respondent has subjected her registered nurse license to disciplinary action under
4 section 2762, subdivision (b) of the Code, for unprofessional conduct, in that on or about
5 November 17, 2008, and February 1, 2007 Respondent used alcoholic beverages to an extent or in
6 a manner that was dangerous and injurious to herself and to others in that she operated a motor
7 vehicle with a significantly high BAC, which is more detailed at paragraphs 13 and 14, above,
8 which are incorporated here by reference.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct - Conviction of an Alcohol-Related Criminal Offense)**

11 16. Respondent has subjected her registered nurse license to disciplinary action under
12 section 2762, subdivision (c) of the Code, for unprofessional conduct, in that on or about
13 August 13, 2009 and May 17, 2007, Respondent was convicted of criminal offenses involving the
14 consumption and/or self-administration of alcohol, as is more detailed at paragraphs 13-14,
15 above, which are incorporated here by reference.

16 **DISCIPLINARY CONSIDERATIONS**

17 17. On or about September 9, 2009, in a criminal proceeding entitled *People of the State*
18 *of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (Harbor Justice
19 Center), case number 09HM06662, Respondent was convicted on her plea of guilty of violating
20 Vehicle Code section 14601.5, subdivision (a), operating a motor vehicle with the knowledge that
21 her driving privileges were suspended, a misdemeanor. As a result of the conviction, Respondent
22 was sentenced to three years informal probation, payment of fees, fines, and restitution in the
23 amount of \$1,301, and ordered to comply with standard terms and conditions of probation.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Veronica Amelia Cuevas for a registered nursing license;
2. Taking such other and further action as deemed necessary and proper.

DATED: December 24, 2012


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit B
Respondent/Applicant's Notice of Withdrawal
of Request for Hearing Case No. 2013-522

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues
Against:

VERONICA AMELIA CUEVAS

Respondent.

Case No. 2013-522

**RESPONDENT / APPLICANT'S NOTICE
OF WITHDRAWAL OF REQUEST FOR
HEARING**

In accordance with California Code of Regulation, title 1, section 1014(c), a party withdrawing a request for hearing, shall immediately notify the Office of Administrative Hearings and all parties. I understand that, I will not have the opportunity to reapply for licensure for 12 months from the effective date of the Board of Registered Nursing decision. I understand that a hearing will be held upon the charges made in the Statement of Issues unless I notify the Board of Registered Nursing that I do not want the hearing previously requested on the denial of my Registered Nurse license application.

**IF YOU WISH TO WITHDRAW YOUR NOTICE OF DEFENSE OR REQUEST FOR A
HEARING, PLEASE DO SO BY DATING AND SIGNING BELOW AND DELIVERING OR
MAILING THIS FORM TO:**

Lauro A. Paredes
Deputy Attorney General
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266

TO THE BOARD OF REGISTERED NURSING:

I, the undersigned Respondent in this proceeding, hereby acknowledge receipt of a copy of the Statement of Issues; the Statement to Respondent; Respondent/Applicant's Notice of Designation of Counsel (2 copies); Respondent/Applicant's Notice of Withdrawal of Request for Hearing (2 copies); Request for Discovery; Discovery Statutes; and Disciplinary Guidelines.

I withdraw my letter requesting a hearing.

Feb. 16, 2013
Date

V. Cuevas
Signature

VERONICA A. CUEVAS
Print Name